

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

CRANE MERCHANDISING  
SYSTEMS, INC.,

Plaintiff,

vs.

NEWZOOM, LLC, BEST BUY  
STORES, L.P., BENEFIT COSMETICS  
LLC, and MACY'S, INC.,

Defendants.

C.A. No. 17-1000-MN

  
PUBLIC VERSION

**CRANE MERCHANDISING SYSTEMS, INC.'S  
MOTION TO ENFORCE SETTLEMENT AGREEMENT**

Dated: December 23, 2020

YOUNG CONAWAY STARGATT &  
TAYLOR, LLP

**OF COUNSEL:**

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*Attorneys for Plaintiff/Counterclaim Defendant Crane  
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**CRANE MERCHANDISING SYSTEMS, INC.'S  
MOTION TO ENFORCE SETTLEMENT AGREEMENT**

Plaintiff Crane Merchandising Systems, Inc. (“Crane”) moves the Court for an Order, substantially similar to the proposed order attached hereto, to enforce the settlement agreement between Crane, NewZoom, LLC, and Swyft, Inc., and require Defendants and Swyft to execute the June 29, 2020 final settlement agreement. Crane also requests that the Court impose sanctions on NewZoom, LLC and Swyft, Inc.

The grounds for this motion are set forth in Crane’s Opening Brief in Support, the Declarations of Jamil N. Alibhai and Matthew D. Michael, and the exhibits attached thereto, filed contemporaneously herewith.

Dated: December 23, 2020

YOUNG CONAWAY STARGATT & TAYLOR, LLP

*/s/ Samantha G. Wilson*

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**C.A. No. 17-1000-MN**

**CERTIFICATION PURSUANT TO LOCAL RULE 7.1.1.**

Pursuant to District of Delaware Local Rule 7.1.1., undersigned counsel for Plaintiff Crane Merchandising Systems, Inc. hereby certifies that a reasonable effort has been made to reach agreement with Defendants and Swyft, Inc. ("Swyft") on the matters set forth in Crane Merchandising Systems, Inc.'s Motion to Enforce Settlement Agreement, including oral communications and mediation involving Delaware counsel for Defendants, and that no agreement was reached. Defendants indicated that they will be opposing the motion. Undersigned counsel understands that Swyft will also oppose the motion.

Dated: December 23, 2020

YOUNG CONAWAY STARGATT & TAYLOR, LLP

*/s/ Samantha G. Wilson*

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**C.A. No. 17-1000-MN**

**[PROPOSED] ORDER**

IT IS HEREBY ORDERED this \_\_\_\_ day of \_\_\_\_\_ 20\_\_ that Plaintiff Crane Merchandising Systems, Inc.'s ("Crane") Motion to Enforce Settlement Agreement is GRANTED as follows:

The March 13, 2020 settlement agreement entered by Crane, NewZoom, LLC ("NewZoom"), and Swyft, Inc. ("Swyft") is binding and enforceable.

The Court orders Defendants and Swyft to sign the June 29, 2020 execution version of the formal settlement agreement and otherwise carry out its terms.

The Court orders Swyft and NewZoom to pay Crane's attorneys' fees and costs incurred in preparing and bringing the Motion to Enforce Settlement Agreement. The Court orders Crane to submit within \_\_\_\_ days of this Order its request for attorneys' fees and costs, including supporting documentation.

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United States District Judge

**CERTIFICATE OF SERVICE**

I, Samantha G. Wilson, hereby certify that on December 30, 2020, I caused to be electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

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*Attorneys for NewZoom, LLC, Best Buy Stores, L.P.,  
Benefit Cosmetics LLC, and Macy's Inc.*

I further certify that on December 30, 2020, I caused a copy of the foregoing document to be served by e-mail on all counsel of record.

YOUNG CONAWAY STARGATT &  
TAYLOR, LLP

/s/ Samantha G. Wilson  
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Dated: December 30, 2020

*Attorneys for Plaintiff/Counterclaim  
Defendant Crane Merchandising Systems,  
Inc.*